

**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

In Re:

**MARIA GABRIELA STOIBER,

Debtor.**

CASE NO. 11-31714

CHAPTER 11

**EMERGENCY MOTION FOR AUTHORITY TO USE CASH COLLATERAL OF THE
CITY OF EL PASO ON THE PROPERTY LOCATED AT 1014 MYRTLE AVE.**

**TO THE HONORABLE H. CHRISTOPHER MOTT, UNITED STATES BANKRUPTCY
JUDGE:**

COME NOW Maria Gabriela Stoiber, the Debtor-in-Possession by and through Sidney J. Diamond of DIAMOND LAW, counsel of record and files this Emergency Motion for Authority to Use Cash Collateral of the The City of El Paso ("City") on the Property Located at 1014 Myrtle Ave. ("Motion"), and would show the court as follows::

1. Maria Gabriela Stoiber filed a Voluntary Petition for Relief on September 2, 2011, pursuant to Chapter 11 of Title 11, U.S.C.. The Debtor is a Debtor-in-Possession, in that he continues to be in possession of her properties and to operate her business pursuant to § 1108 of Title 11, U.S.C. ("Bankruptcy Code").

Properties

2. The City of El Paso has a first lien on the properties located at 1014 Myrtle Ave., El Paso, El Paso County, Texas. There is no equity in the property, however the property is necessary for the effective reorganization of the estate of the Debtor.

3. In support of this Motion, the Debtor submits the Unsworn Declaration of Maria Gabriela Stoiber, in Support of the Motion for Authority to Use Cash Collateral filed contemporaneously herewith as Exhibit "A".

Use Of Cash Collateral

4. The collateral consists of real estate and cash collateral as that term is defined in §363 of Title 11, United States Codes and does not come into existence until an appropriate demand has been made. Although no demand has been made to cease using cash collateral the Debtor anticipates that such demand will be made shortly. The Debtor in order to continue to operate her business must have access to and the use of the cash collateral generated from rents of the foregoing properties. These funds will be used generally in accordance with the proposed ninety (90) day operating budget attached hereto as Exhibit "B".

Adequate Protection Afforded

5. As adequate protection, Maria Gabriela Stoiber proposes, if such is even necessary because of the nature of the lien, a replacement lien on all income generated from the property. City is an under-secured and therefore is not entitled to the benefits of § 506(b) of Title 11, United States Code. City is adequately secured because the property is not depreciating but is in fact appreciating. The Debtor will shortly file a motion to value the property pursuant to § 506 of Title 11, United States Code. The Debtor proposes to pay to the secured lender interest at the contract rate beginning October 1, 2011, and continuing from month to month thereafter until an order confirming a plan is entered. The remaining benefits will be paid pursuant to an order entered on application filed by the secured party as part of the confirmed plan.

Interim Order

6. Maria Gabriela Stoiber proposes these terms on an interim basis, subject to the opportunity of other parties in interest to be heard before these terms would be made into a final cash collateral order.

WHEREFORE, the Debtor prays:

1. That this Court approve the use of cash collateral and adequate protection for the purpose of the Debtor using such funds in the manner set forth on Exhibit "B"; and,

2. The Debtor have such and further relief that it make show herself justly entitled.

DATED: September 16, 2011.

Respectfully submitted,

DIAMOND LAW

/s/ Sidney J. Diamond

Sidney J. Diamond

Attorney for Debtor

SBN: 5803000

3800 N. Mesa, Suite B-3

El Paso, Texas 79902

(915) 532-3327 Voice

(915) 532-3355 Fax

sidney@sidneydiamond.com

CERTIFICATE OF SERVICE

I, Sidney J. Diamond, do hereby certify that on September 16, 2011 a true and correct copy of the foregoing Emergency Motion for Authority To Use Cash Collateral of the City of El Paso on Property Located at 1014 Myrtle Ave. was served, by depositing the same in the United States Mail, properly addressed and postage prepaid or via electronic means as listed on the Court's ECF noticing system, by fax, by email to the following parties:

THE DEBTOR:

Maria Gabriela Stoiber
PO Box 371063.
El Paso, TX 79937

THE UNITED STATES TRUSTEE:

Kevin Epstein
P.O. Box 1539
San Antonio, TX 78295-1539
By Email: Kevin.M.Epstein@usdoj.gov

SECURED CREDITOR

City of El Paso
PO Box 2992
El Paso, TX 79999-2992

Victor M. Firth
Firth, Johnston & Martinez
415 N. Mesa, Third Floor
El Paso, TX 79901

CREDITORS AND PARTIES IN INTEREST:

See Attached Exhibit "C"

/s/ Sidney J. Diamond

Sidney J. Diamond

EXHIBIT "A"

**UNSWORN DECLARATION UNDER PENALTY OF PERJURY OF MARIA
GABRIELA STOIBER IN SUPPORT OF MOTION FOR USE OF CASH COLLATERAL**

I, Maria Gabriela Stoiber, hereby state as follows:

1. That I am the Debtor-in-Possession ("Debtor"). I am over 21 years of age, and am fully competent to make this affidavit. I am making this affidavit in support of the Motion for Authorization to Use Cash Collateral (the "Motion") filed with the Court. I have personal knowledge of the facts stated herein, and they are true and correct to the best of my current knowledge and belief.

2. To the best of my knowledge, the only creditor holding or asserting an interest in the cash collateral of the Debtor is: The City of El Paso. The name and address of this secured creditor and its respective counsel is as follows:

Lender: The City of El Paso
 P.O. Box 2992
 El Paso, TX 79999-2992

Counsel for Debtor has contacted Victor Firth, the attorney for the City of El Paso in the foreclosure action and advised him of the filing of the Motion for Authority to Use Cash Collateral. Additionally counsel for Debtor has contacted Corey Haugland and Robert Feuille to try and ascertain who the attorney that is going to represent the City of El Paso in this case is going to be and they have both told him that they have not been engaged to represent the City of El Paso in this case. The City Attorney was going to see who their counsel in this matter was going to be and call back with that information.

3. I have instructed my counsel to telecopy, in the afternoon of September 16, 2011, a copy of this Motion, this Declaration, and the proposed Order to said creditor and its counsel, notifying them that the Debtor would be seeking an emergency order authorizing the use of cash collateral, and that the Debtor would immediately be approaching the Court concerning such matter. It is my understanding that my counsel has already discussed this subject with the attorneys for creditor on various occasions.

4. It is imperative that the I immediately be authorized to utilize cash collateral in the ordinary course of business on an interim basis. I am engaged in the business of El Paso, Texas. I am obligated under certain contracts to pay employees, vendors and utilities. In the event the my operations are interrupted, the rental contracts will cease and collection of receivables may cease.

5. It is anticipated, due to the Chapter 11 filing, many of my suppliers, shippers and creditors will require cash payments upon delivery of goods or performance of services. If I am not authorized utilize funds to pay suppliers, shippers and creditors for post-petition obligations, I will be unable to pay my employees, to purchase supplies or to pay utilities. Further, I will need to utilize cash collateral for adequate protection payments for my lenders. A proposed budget setting forth the estimated amounts of cash collateral which will be needed for such purposes is included herein. The budget attached hereto is anticipated to be an accurate reflection of the cash needs.

6. I estimate that from the period September 1, 2011 through September 31, 2011, I will collect the amount of approximately \$ from the operation of my business.

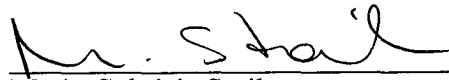
7. I requests authority form the Court to utilize cash collateral in the ordinary course of business, up to the amounts set forth in this Declaration from the cash funds currently on hand and cash collected by me after the filing date.

8. As adequate protection for the use of cash collateral, I offer to grant to the City of El Paso in exchange for the use of cash collateral generated from the operation of the business, a replacement lien on all future receivables it refinances for me.

9. It is necessary that the Court, immediately authorize the use of the cash collateral set forth herein, or I will suffer immediate and irreparable injury, harm and damage.

10. I verify under penalty of perjury that the foregoing is true and correct.

Dated: September 16, 2011.



Maria Gabriela Stoiber

INCOME AND EXPENSE REPORT FOR 5 PROPERTIES

1014, 1015 MYRTLE 189 S. COLLINGSWORTH, 401 S. FLORENCE, 202-204 W. CALIFORNIA

	30 Day Income	60 Day Income	90 Day Income
1014 Myrtle	\$5,615.00	\$11,230.00	\$16,845.00
1015 Myrtle	\$6,924.00	\$13,848.00	\$20,772.00
189 S. Collingsworth	\$9,055.00	\$18,110.00	\$27,165.00
202 W. California	\$1,700.00	\$3,400.00	\$5,100.00
401 Florence	\$4,350.00	\$8,700.00	\$13,050.00
Total Incomes	\$27,644.00	\$55,288.00	\$82,932.00
1014 Myrtle	\$4,127.63	\$8,255.26	\$12,382.89
1015 Myrtle	\$3,783.48	\$7,566.96	\$11,350.44
189 S. Collingsworth	\$5,126.11	\$10,252.22	\$15,378.33
202 W. California	\$968.34	\$1,936.68	\$2,905.02
401 Florence	\$2,479.80	\$4,959.60	\$7,439.40
Total Expenses	\$16,485.36	\$32,970.72	\$49,456.08
Profit or Loss	\$11,158.64	\$22,317.28	\$33,475.92

Debtor(s): **Maria Gabriela Stoiber**Case No: 11-31714
Chapter: 11WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Automatic Laundry Company, Ltd.
140 Gail Borden, Unit A-2
PO Box 370670
El Paso, TX 79937

City of El Paso Tax Assessor/Co
P. O. Box 2992
El Paso, TX 79999-2992

T-Mobile
P.O. Box 660252
Dallas, Texas 75266-0252

Bank Of America
Po Box 17054
Wilmington, DE 19850

Dsnb Macys
9111 Duke Blvd
Mason, OH 45040

Timepayment Corp Llc
16 Ne Exec Office Park S
Burlington, MA 01803

Bank of America Mortgage
P.O. Box 650070
Dallas, Texas 75265-0070

El Paso ABA Management LLC
PO Box 371063
El Paso, TX 79937

U.S. Attorney
FHZ/HUD/VA/IRS
601 N.W. Loop 410, Suite 600
San Antonio, TX 78216

Barclays Bank Delaware
Attention: Bankruptcy
PO Box 8801
Wilmington, DE 19899

IRS - Special Procedures Staff
Stop 5022 AUS
300 E. 8th Street
Austin, TX 78701

US Small Business Administratio
200 W. Santa Ana Blvd., Ste. 18
Santa Ana, CA 92701

Capital One, N.a.
Capital One Bank (USA) N.A.
PO Box 30285
Salt Lake City, UT 84130

Kevin Epstein
United States Trustee
P.O. Box 1539
San Antonio, TX 78295-1539

Victor M. Firth, Esq.
Firth, Johnston & Martinez
415 N. Mesa, 3rd Floor
El Paso, TX 79901

CFI Security, Inc.
6410 Airport Rd., Ste. 4
El Paso, TX 79925

Linebarger, Goggan Blair & Samp
711 Navarro, Ste. 200
San Antonio, TX 78205

CFI Security, Inc.
6410 Airport Road, Ste. 4
El Paso, TX 79925

Maria Gabriela Stoiber
PO Box 371063
El Paso, TX 79937

Chase
Po Box 15298
Wilmington, DE 19850

Midland Credit Management
PO Box 60578
Los Angeles, CA 90060-0578

City of El Paso
El Paso Tax Assessor/Collector
PO Box 2992
El Paso, TX 79999-2992

San Francisco Historic District
PO Box 55
El Paso, TX 79940

City of El Paso Tax Assessor Co
c/o Linebarger, Goggan Blair &
711 Navarro, Ste. 200
San Antonio, TX 78205

Sprint
KSOPHT0101-Z4300
6391 Sprint Parkway
Overland Park KS 66251-4300